

House File 2008 - Introduced

HOUSE FILE 2008

BY HESS

A BILL FOR

1 An Act relating to child support licensing sanctions.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 252J.2, subsection 2, paragraph a, Code
2 2014, is amended to read as follows:

3 a. An obligor is subject to the provisions of this chapter
4 if the obligor's support obligation is being enforced by the
5 unit, if the support payments required by a support order to
6 be paid to the clerk of the district court or the collection
7 services center pursuant to section 598.22 are not paid and
8 become delinquent in an amount equal to the support payment
9 for ~~three~~ two months, and if the obligor's situation meets
10 other criteria specified under rules adopted by the department
11 pursuant to chapter 17A. The criteria specified by rule shall
12 include consideration of the length of time since the obligor's
13 last support payment and the total amount of support owed by
14 the obligor.

15 Sec. 2. Section 252J.4, subsection 4, paragraph b, Code
16 2014, is amended to read as follows:

17 b. The unit finds a mistake in determining that the amount
18 of delinquent support is equal to or greater than ~~three~~ two
19 months.

20 Sec. 3. Section 252J.6, subsection 3, paragraph c, Code
21 2014, is amended to read as follows:

22 c. The unit or the court finds a mistake in determining that
23 the amount of delinquent support due is equal to or greater
24 than ~~three~~ two months.

25 Sec. 4. NEW SECTION. 252J.10 Repeated noncompliance with
26 support obligation — automatic issuance of certificate of
27 noncompliance.

28 1. Notwithstanding any provision of this chapter to
29 the contrary, if an obligor is subject to this chapter as
30 established in section 252J.2, subsection 2, paragraph "a", and
31 the delinquency in payment of the obligor's support obligation
32 constitutes the third instance in a consecutive five-year
33 period that the obligor would be subject to potential sanction
34 of a license pursuant to section 252J.3, all of the following
35 shall apply:

1 *a.* (1) In lieu of issuance of the notice under section
2 252J.3, the unit shall issue a notice to the obligor that the
3 unit is automatically issuing a certificate of noncompliance to
4 any appropriate licensing authority identified in the notice
5 for suspension, revocation, or denial of the issuance or
6 renewal of any appropriate license.

7 (2) The notice shall inform the obligor that the provisions
8 of this chapter to the contrary do not apply, that the actions
9 initiated by the unit under this subsection shall not be
10 subject to contested case proceedings or further review
11 pursuant to chapter 17A, that notwithstanding section 17A.18,
12 the obligor does not have a right to a hearing before the
13 licensing authority to contest the authority's actions under
14 this section, but that the obligor may request a court hearing
15 as provided in this section and any such court hearing shall be
16 an original hearing before the district court.

17 (3) Following issuance of the notice to the obligor under
18 this paragraph "a", the unit shall issue the certificate
19 of noncompliance to the appropriate licensing authority
20 and the licensing authority shall automatically suspend,
21 revoke, or deny issuance or renewal of the respective license
22 notwithstanding any rules and procedures for suspension,
23 revocation, or denial of the issuance or renewal of a license
24 to the contrary.

25 *b.* If the obligor decides to request a court hearing, all
26 of the following shall apply:

27 (1) The obligor may seek review of the issuance of
28 the certificate of noncompliance and the license sanction
29 implemented by the licensing authority and request a hearing
30 before the district court in the county in which the underlying
31 support order is filed, by filing an application with the
32 district court and sending a copy of the application to the
33 unit by regular mail.

34 (2) An application shall be filed no later than within
35 thirty days after the issuance of the notice by the unit

1 pursuant to paragraph "a". The clerk of the district court
2 shall schedule a hearing and mail a copy of the order
3 scheduling the hearing to the obligor and the unit and shall
4 also mail a copy of the order to the licensing authority, if
5 applicable. The unit shall certify a copy of the certificate
6 of noncompliance, indicating the date of issuance, prior to the
7 hearing.

8 (3) The filing of an application pursuant to this paragraph
9 "b" shall not stay the actions of a licensing authority
10 under this section. The hearing on the application shall be
11 scheduled and held within thirty days of the filing of the
12 application.

13 (4) The scope of review by the district court shall be
14 limited to demonstration of a mistake of fact relating to the
15 delinquency of the obligor. Issues related to visitation,
16 custody, or other provisions not related to the support
17 provisions of a support order are not grounds for a hearing
18 under this section.

19 (5) A support order shall not be modified by the court in
20 a hearing under this chapter.

21 (6) If the court finds that the unit was in error in
22 issuing a certificate of noncompliance, the unit shall issue
23 a withdrawal of the certificate of noncompliance to the
24 appropriate licensing authority.

25 c. If an obligor is subject to suspension or revocation of
26 a license or is denied the issuance or renewal of a license as
27 the result of the issuance of a certificate of noncompliance
28 under this subsection, the unit may issue a withdrawal of the
29 certificate of noncompliance to the appropriate licensing
30 authority only upon payment by the obligor of the total amount
31 of delinquent support owed.

32 2. a. If an obligor subject to license sanction under
33 subsection 1, for which the court does not find the unit to be
34 in error under subsection 1, paragraph "b", subsequently fails
35 to comply with a support order and becomes delinquent in an

1 amount equal to the support payment for two months, in lieu
2 of issuance of a notice under section 252J.3 or subsection 1
3 of this section, the unit shall issue a notice to the obligor
4 that the unit is automatically issuing a certificate of
5 noncompliance to any appropriate licensing authority identified
6 in the notice for revocation or denial of the issuance or
7 renewal of any appropriate license.

8 *b.* The notice shall inform the obligor that the provisions
9 of this chapter to the contrary do not apply, that the actions
10 initiated by the unit under this subsection shall not be
11 subject to contested case proceedings or further review
12 pursuant to chapter 17A, that notwithstanding section 17A.18,
13 the obligor does not have a right to a hearing before the
14 licensing authority to contest the authority's actions under
15 this section, and that the actions initiated under this
16 subsection are not subject to judicial review.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill includes provisions relating to child support
21 license sanctions under Code chapter 252J.

22 Currently, an obligor is subject to license sanctions if the
23 support payments required by a support order are not paid by
24 the obligor and become delinquent in an amount equal to the
25 support payment for three months. The bill would reduce this
26 to an amount equal to the support payment for two months.

27 The bill also provides that if an obligor is subject to
28 license sanctions for a third time in a consecutive five-year
29 period, in lieu of the existing procedure for license sanctions
30 which includes the opportunity to schedule a conference with
31 the child support recovery unit (unit) and to enter a written
32 agreement for payment, the unit will instead send a notice to
33 the obligor that the obligor is subject to license sanctions,
34 and that the only opportunity to challenge the unit's actions
35 is by requesting a district court hearing. The actions of

1 the licensing authority are not stayed upon filing of the
2 application for a hearing. The scope of review by the district
3 court is limited to demonstration of a mistake of fact relating
4 to the delinquency of the obligor. If the court finds that the
5 unit was in error, the unit is required to issue a withdrawal
6 of a certificate of noncompliance to the appropriate licensing
7 authority. If the obligor is subject to revocation or
8 suspension of a license or is denied the issuance or renewal of
9 a license, the unit may issue a withdrawal of the certificate
10 of noncompliance to the appropriate licensing authority only
11 upon payment by the obligor of the total amount of delinquent
12 support owed.

13 The bill also provides that subsequent to a license sanction
14 that is based on the obligor being subject to a third license
15 sanction in a consecutive five-year period, if an obligor
16 fails to comply with a support order and becomes delinquent
17 in an amount equal to the support payment for two months,
18 the unit shall issue a notice to the obligor that the unit
19 is automatically issuing a certificate of noncompliance to
20 any appropriate licensing authority identified in the notice
21 for revocation or denial of the issuance or renewal of any
22 appropriate license. The notice is to inform the obligor that
23 no opportunity, including the opportunity for judicial review,
24 exists to challenge the actions initiated by the unit.